

To: The President's Advisory Panel on Tax Reform  
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PRESIDENT'S ADVISORY  
PANEL  
ON FEDERAL TAX REFORM  
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Since 1972 my avocation has been studying the tax code and structuring my financial life around it. The ramifications of the 1986 Tax Reform Act accelerated my belief that the system was so chaotic, complicated, confusing and threatening that it should be abandoned in its entirety. (Nineteen years later you can imagine what I might be thinking!) One-on-one conversations with taxpayers and continued study of the every increasing time and energy and money and knowledge demands of each and every April 15th has brought me here today.

Forgive what might be considered "political incorrectness" in my attached paper. ... "telling it like it is" seems more important for this assignment. It will become obvious as you read my treatise that I could have written 500 pages. Out of my hand-collected encyclopedia of "Tax Code Ironies" I tried to cull some items that might otherwise go unnoticed and which go to the heart of the matter: Revenue collection has evolved into a convoluted system not unlike a broken vase--repaired so often that nothing short of getting a new vase will contain all the leaks.

Years ago Senator John McCain said that the reason the tax system has not changed is because the taxpayer does not have a lobbyist in Washington. I want to be that lobbyist. Having devoted February 1 through April 14 all of my adult life to our tax system and spent the spare time the other eight months studying more of its nuances than I care to admit, certainly qualifies me. For the last twelve years I have given considerable thought to an alternative to the current system. Not only do I believe it would be revenue neutral, but I believe that it might help solve the Social Security and Medicare problems (assuming that the US government could learn to live within its means...which most of us out in the hinterland are accustomed to doing). It could also be phased in to determine its efficacy and fine-tuned along the way if needed. It would be transparent in its implementation as it relates to individual's pocketbooks. And, most of all, it would be fair.

I would be honored to work with the Panel further.

## I HEADACHES

- 1) In the past new legislation was either made retroactive to January 1 or on occasion a mid-year convention was used. Now we have items which are either date specific (May 5 in 2003) or even more ludicrous "...dividends received on stock held for less than 61 days during the 121-day period that began 60 days...". If the US budget was \$1.0 million a year these "pin dot" specifics might make a monetary difference to revenues; but it's not and they don't..
- 2) The number of brokerage houses that are sending out corrected 1099's--not once or twice but three to five times. And from one to the next, the treatment of identical situations is not the same. Presumably the large houses that have large tax departments should be able to get it right the first time, no? For 2004 tax returns no one seems to know what "right" is!

## II FAIRNESS

- 1) It is a voluntary system . If one chooses NOT to volunteer (drug dealers, con artists, bookies, underground economy, etc.) there are no penalties unless they get caught at their "work". Every drug deal where the drugs have street value of millions of dollars is potentially millions of tax dollars that have never been collected. Yet the individual who "volunteered" is subjected to penalties and interest should the data they submit happen to be wrong..
- 2) Allegedly it only takes an eighth grade education to do one's own taxes. But the instructions are written in a language not spoken anywhere: e.g. "A passive activity is not a passive activity...". Correlation: "A cat is not a cat..." who speaks this way? So interpretation of intent not only requires more than an elementary school education, it requires a particular type of brain function.

- 3) There is an inconsistency of either hiring, training, or performance review of first-line IRS tax return reviewers: A deduction allowed one year is disallowed (through interpretation) the next year and is allowed again the following year. (Also a Headache!)
- 4) There is double taxation on state income tax refunds if one follows the IRS instructions. Include on Schedule A the amount withheld for state income tax this year; next year the state refund is considered "income" and is taxed again. The state income tax dollars withheld are already "after-tax dollars" (i.e. taxed once at the federal level). The deduction on Schedule A only gives you your tax bracket percentage as a "rebate". The amount of refund is then taxed again in its entirety. The only way to avoid this double taxation is to ignore the IRS instructions...which, out of fear, few people and/or tax accountants are willing to do. (Will the Federal Tax refund be taxed next???)
- 5) New for 2004 returns: "Pick one: state sales tax or state income tax". (Law passed to give equality to residents of states that only have a state sales tax.) The only way to have true equality would be to allow deducting all taxes, fees, etc. used by states to fund their budgets (which is what both the state income tax and state sales tax are used for). This is a classic example of misuse, or better yet "re-use", of words. The intent is one thing and the outcome has no bearing on anything. This deduction as it stands is not only unfair but illogical. (Will those who made the state sales tax choice in 2005 be taxed next year on the refund they receive from their state income tax?)
- 6) The complexities require most individuals and businesses to hire someone to complete the paperwork

on their behalf. If the taxpayer who signs the forms is not totally versed in the Code the ONLY thing they can do is SIGN the document. They have no way to prove or verify the accuracy or efficacy of the return. The taxpayer is totally at the mercy of the tax preparer.

7) If the system were fair Money Magazine could not have received the results they did when they gave a hypothetical family's finances to approximately 400 tax preparers. Year after year the results were the same: no two tax returns looked alike.

8) The rich can hire the best tax preparers; the poor muddle by on their own or with mediocre help.

9) If one is a living thing one needs to eat to stay alive. (Whether or not one eats 'three square ones' a day is one's choice.) Meals should NEVER EVER be a deduction...we'd probably slim down some as a side benefit! The Meal Deduction, even if limited, is irrational and illogical. If it didn't exist most business meals would take place in the company cafeteria or at the corner lunch counter. Why a meal should be subsidized totally eludes me. (This also belongs under Section III Distorting Decisions.)

10) The AMT Myth: One is not obligated to take all deductions to which one is entitled. If one plays with the deductions the AMT can be avoided...but most people don't know this. Given the number of Congresspeople who discuss the need to "deal with the AMT issue" one could guess that they don't know this either. This is just one example of how the preparer can "tinker" to his own advantage but is that what tax collection/revenue generation should be all about: Who can out-wit and out-smart the minds that designed a system that was meant to put its citizens in "servitude" mode in order to comply?

### III DISTORTING DECISIONS

- 1) Is there really such a thing as a corporate income tax? Even those companies that remit tax dollars to the US Treasury (and all don't) pass along that cost to the consumer in the goods or services they provide. But in the belief that they do "pay", they waste precious dollars in lobbying efforts to reduce their tax obligations and they waste precious dollars on tax accountants whose sole job is to minimize what they owe. For what purpose??? since they then pass on to the consumer what they do pay. Idea: Let the middlemen (i.e. businesses) stick to their knitting and delete them from the "taxpayer" list.
- 2) Large companies run every business decision past their tax departments, they wouldn't think of doing otherwise. Think about "what could be" if their decisions went unfettered by the Tax noose.
- 3) Many people would not (and probably should not) buy homes were it not for the mortgage interest and real estate tax subsidies. They really don't want the attendant responsibilities of home ownership (witness the popularity of condominiums: a tax break without lawn mowing).
- 4) The popularity of Real Estate Tax Shelters were the direct result of the Tax Code. At the onset they looked like a great investment decision but the TRA of 1986 put them all on their ears and many individuals lost their investment as a result. This is also a great example of a Headache (changing the rules without ample notice) and Fairness (changing the rules without ample notice)...and ample would mean years, not months.

#### IV PANEL GOALS

- 1) Tinkering with the existing Code should not be an option. Why? After 1955 very single “tinker” created more complexities, more paperwork, more wasted time and energy, and cost more to comply. (The 1986 Tax Reform Act, among other things, destroyed the real estate industry and it took years to recover.) All the time and money spent annually on compliance is “black hole” time and money: it doesn’t balance the budget, it doesn’t form a more perfect union...and there isn’t even a widget to show for it at the end of the day. The Code as it stands today only achieves wasted time and money. The new system should be SIMPLE, SIMPLE, SIMPLE!! And the new system should NOT be voluntary.
- 2) The solution should be one that could be phased in so that there is plenty of time for everyone to prepare.
- 3) The new system should be one that precludes advertising for “ways to get around paying taxes”. The US tax system has spawned an “anti-tax” industry unto itself but that industry smacks of prostitution: out in the open but not talked about in polite company.
- 4) The Panel should only think about what is good for all US citizens. It should not worry about the lobbyists, it should not worry about whether Congress will pass the legislation. If the Panel comes up with the best, salable system, the citizens will do the selling of their elected officials in Washington.

**“Don’t dwell on reality...it will keep you from greatness.” (Unknown)**